

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

MITCHELL COSBY,

Plaintiff,

v.

WILLIE MYLES,

Defendant.

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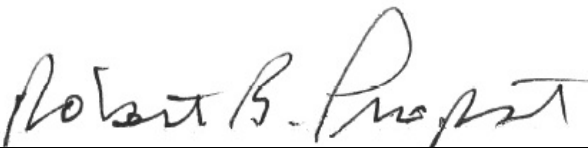
4:07-CV-095-RBP-RRR

**MEMORANDUM OPINION**

On May 22, 2009, the magistrate judge conducted an evidentiary hearing in the above-referenced action. The magistrate judge filed a report and recommendation on June 1, 2009, which included findings of fact. The report recommended that judgment on the excessive use of force claim be entered against the plaintiff and in favor of the defendant, Willie Myles, in his individual capacity. No objections have been filed by either party.

Having carefully reviewed and considered *de novo* the entirety of the record, including the report and recommendation, the court is of the opinion that the magistrate judge's findings are due to be and are hereby ADOPTED, and the recommendation is ACCEPTED, as the Court EXPRESSLY FINDS that defendant Willie Myles is entitled to judgment as a matter of law in his individual capacity on the excessive force claim. Wherefore, as this claim against the defendant in his official capacity has been dismissed previously, this action is now due to be concluded. An appropriate order will be entered.

DONE this the 19<sup>th</sup> day of June, 2009.

  
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**ROBERT B. PROPST**  
**SENIOR UNITED STATES DISTRICT JUDGE**